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To make it more easily readable, we have used the male pronoun only.
We thank our readers for their understanding.

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November 2018

Catherine Chammartin, Director General



On 22 November 2017, the Federal Council approved the dispatch for the revision of the Copyright Act. In so doing, the government officially adopted the recommendations of the copyright working group composed of representatives from affected stakeholders. It was a special day for my colleagues, who have been working on the revision for over five years.

Copyright is at the centre of a conflict of interests between authors, intermediaries and users of works. Ideally, there should be a fair balance between these three poles as there is in an equilateral triangle. Yet technological innovations such as the digitalisation of works, download portals and streaming services have destabilised this balance, which is why the legislature has to intervene once again.

Dealing with technological progress is a constant reality of life in our Institute, and not only in the field of copyright. In the Trade Mark Division, we reached a significant milestone during the reporting year with the introduction of the electronic administration of IP rights – thus internal correspondence is now paperless.

The digital transformation of society never sleeps. In universities, private research institutes and start-ups, work is being carried out at full speed on the Internet of Things (IoT) and applications of artificial intelligence (AI). Inventions and patent applications are not coming solely from IT and communication technology businesses, however. On the contrary, there is now hardly any industry that doesn't work with AI and IoT.

This has consequences for our work because if the boundaries between industries are becoming permeable, the scope of the state of the art for searches – to name just one example – becomes greater. Consequently, our specialists are working

with self-learning algorithms which have the capacity to find those documents from among millions of others that could be informative for them. The future has already arrived at the IPI.

However, let's cast a brief look back at the past. The theme of our staff party this year was the eighties. It was the decade of aerobics and the fall of the Berlin Wall – and it was also the last time that a revision of the Copyright Act was on the political stage.

I therefore took the opportunity to read through the arguments and positions of that time. The contentious issue then was the handling of new technology such as the photocopier and video cassette. Ultimately, the parties agreed to a compromise, which was based on what is known as the photocopier and the blank media levy.

No one can predict how we will distribute, exploit and consume music, films and literary works in the year 2050. However, I am confident that the IPI will again succeed, when the time comes, in balancing interests and pointing the way forward with a tenable compromise for all involved.

SUPER MARIO BROS.



Envisioned. Created. Protected.

Anyone who has a brilliant idea, persistently develops it and turns it into practical reality, should be able to protect it as their own intellectual property. This is why individuals and companies can register their innovations and creations at the Swiss Federal Institute of Intellectual Property (IPI).

Inventions are patented, shapes are registered as designs, and names or logos are registered as trade marks to protect them from being copied by others. Then there are geographical indications of source, which identify a product or service as originating from a certain place or region (e.g. Zug cherry cake).

Copyright, however, is a special case. The moment a work is created, the rights to the work arise automatically, which means that they do not require any registration. To better exploit these rights, copyright owners of certain categories of works (e.g. literature, music, film) team up with special organisations called collective rights management organisations (CMOs). The IPI is responsible for supervising these CMOs together with the Federal Arbitration Commission for the Exploitation of Copyrights (FACO).

Research first, then register

Inspiring ideas are like a source of light. From the perspective of inventors, designers and authors, they expand our knowledge of the known. But what happens if someone else got there before you and the IP rights have already been secured? In this case, you need to weigh up whether there is any scope left for applying for a trade mark, patent or design, or in the case of a geographical

indication, registering it. Since there is no examination as to the novelty of an invention under patent law in Switzerland, it is up to applicants to clarify whether their invention is novel and as such meets this criterion for patent protection. The IPI provides trade mark and patent searches, which ensure, for example, that a trade mark or patent application does not infringe any existing third party IP rights.

Although intellectual property knows no frontiers, patent, design and trade mark protection only apply in those countries in which IP rights have been applied for and registered – and are in force. However, there are international organisations such as the European Patent Organisation (EPO) and the World Intellectual Property Organization (WIPO), which provide harmonised application procedures. It is possible, for example, to apply for patent protection in up to 42 different countries via the European Patent Office. The IPI is actively involved in shaping international developments in intellectual property, too.

Protection grants exclusivity

Patents, trade marks, designs and geographical indications of source, which are known as IP rights, grant their owners the right to prevent third parties from using their intellectual property.

However, this does not imply that the protection IP rights provide is absolute. Because IP rights – just like any other rights – can be infringed. Rights owners must therefore take responsibility and decide themselves if they want to exercise their claims and, if necessary, enforce them. For companies, intellectual property can make up a significant share of their market value. A patent allows a potentially ground-breaking technology to be exclusively marketed, while the degree of recognition of a trade mark facilitates the sale of existing and new products. This is why companies actively manage their intellectual property and integrate how they will handle it in their strategic development processes. The IPI provides information on learning about the advantages and dis-

advantages of different possibilities of protection, in particular to inexperienced IP users such as SMEs.

The IPI as an institution

The IPI, as it is known today, was founded as the Federal Patent Office in 1888. It was granted the status of an independent entity under public law on 1 January 1996. Since then, it has been operating autonomously and is a legal entity in its own right. It is financed by the fees it collects, keeps its own accounts and is independent of the federal budget in every way. This means that taxes are not used to administer IP rights, and fees for IP rights are not used for the construction of motorways. The IPI is respon-

The Swiss Federal Institute of Intellectual Property





sible for all issues concerning intellectual property in Switzerland and employs around 270 staff at its headquarters in Bern.

The topic of digital transformation is an issue at the IPI, too. The renewal and expansion of the electronic IP rights administration and eAdministration systems is currently a key project at the IPI. Its economic business autonomy enables the IPI to respond to such a changing environment in an agile way.

As part of its public relations work in the field of intellectual property, the IPI also supports organisations and programmes such as the Swiss Innovation Forum (SIF), the SEF4KMU programme and the Swiss Youth in Science foundation (SJf).

The IPI is also involved in an extensive international development collaboration with the State Secretariat for Economic Affairs (SECO). It works together with selected countries with the objective of establishing a well-functioning, national intellectual property protection system. This is also intended to adequately protect the international investment and sales markets of the Swiss economy abroad.

The federal government's "attorney's office"

The IPI also has a political mandate. It is responsible for drafting legislation and advising the Federal Council and other federal authorities on matters concerning intellectual property. At the same time, the IPI also has the mandate to represent the interests of Switzerland in international organisations such as the EPO, the WIPO and the WTO (World Trade Organization). This makes the IPI the federal government's "attorney's office" for intellectual property matters.

Another task that stems from the IPI's function as an independent centre of competence is that of advising decision-makers in politics and administration, as well as providing specialist support to Swiss trade delegations at international level.

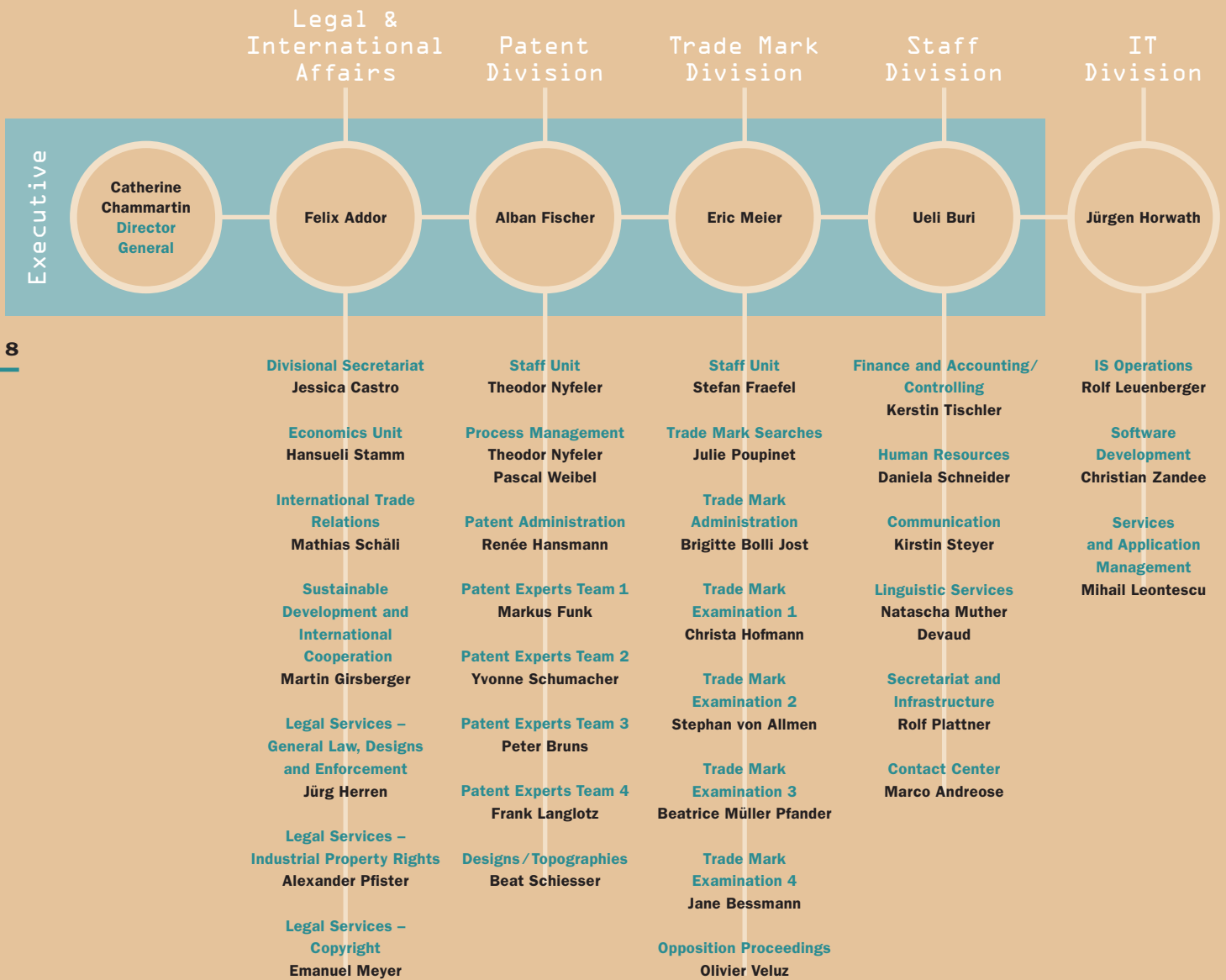
The IPI also provides information to artists, creatives and representatives of the Swiss economy about the IP rights system and the latitude that it offers. For this purpose, the IPI conducts courses and seminars on these topics as well as cooperates with Swiss higher education institutions.

Commercial services

Patent and trade mark registers are the telephone directories of intellectual property rights and contain a wealth of information. Together with international technology databases, they can pro-

vide information such as on the state of the art in a specific market, on competitors, or on new technology trends. The IPI's experts are able to extract such information and prepare it for their customers. These search services offered by the IPI are also in demand abroad and are marketed under the label ip-search.

Organigram







From left to right: Beatrice Renggli, Roman Boutellier, François Curchod (until 30.6.2018), Peter Walser, Felix Hunziker-Blum (President), Matthias Ramsauer, Sara Stalder, Yves Bugmann, Evelyn Zwick. Missing from the photo: Luc-E. Amgwerd.

The Institute Council – which is elected by Switzerland’s Federal Council – is the IPI’s supreme supervisory body with regard to the operational management of the IPI.

Felix Hunziker-Blum

Dr. iur., Attorney-at-Law, President

Roman Boutellier

Prof. Dr. sc. math., Emeritus Professor of Innovation and Technology Management ETH Zurich

Yves Bugmann

lic. iur.

Matthias Ramsauer

Attorney-at-Law, FDJP Secretary-General

Beatrice Renggli

lic. iur.

Sara Stalder

Swiss Consumer Protection Foundation Manager

Evelyn Zwick

Dipl. Phys. ETH, Patent Attorney

Peter Walser

Dr. sc. nat. ETH, Patent Attorney

Luc-E. Amgwerd

lic. iur., CEO Gjosa SA

Auditing: The Federal Finance Administration in Bern has been appointed by the Federal Council to audit the IPI’s accounts and report to the Institute Council.



From left to right: Felix Addor, Alban Fischer, Catherine Chammartin (Director General), Ueli Buri, Eric Meier

The Executive Board is appointed by the Institute Council, with the exception of the Director General, who is elected by Switzerland's Federal Council.

Catherine Chammartin

Director General

Felix Addor

Deputy Director General, General Counsel of the IPI and Head of the Legal & International Affairs Division

Ueli Buri

Vice Director General and Head of the Staff Division

Alban Fischer

Vice Director General and Head of the Patent Division

Eric Meier

Vice Director General and Head of the Trade Mark Division

An Overview of the Year at the IPI

July/
August

September

October

November

6 September 2017

Regiosuisse conference “Regional innovation promotion and KTT: offerings and their benefit for the economy”

At its conference this year, regiosuisse – the knowledge platform of New Regional Policy (NRP) – focused not only on the specific form of offerings in the field of knowledge and technology transfer (KTT), but also on the promotion of innovation. In the discussion forums, participants were able to familiarise themselves with the IPI’s patent landscape analysis with the help of experts from the IPI.

7 September 2017

Patents and pharmaceuticals – public event by the European Patent Office and the IPI

An event on patenting procedures relating to the pharmaceutical field took place at the IPI on 7 September 2017. Patent examiners from the European Patent Office and the IPI, as well as a judge from the Federal Patent Court, a patent attorney from a law firm, and a patent attorney from a large corporation discussed diverse questions from the field of pharmaceutical patents.

3 October 2017

A patent database in the service of public health

Pat-INFORMED is the newest initiative launched by the WIPO together with the research-oriented pharmaceutical industry at the WIPO General Assembly on 3 October 2017 in Geneva. According to the media release of the International Federation of Pharmaceutical Manufacturers & Associations (IFPMA), the Pat-INFORMED database is to be made publicly accessible mid-2018. The aim of the database is to provide information primarily to procurement agencies concerning which medicinal products are patented where and where they are not. This information helps in the purchasing and selection of medicinal products. Initially, the database will be limited to a few important medicinal products in the field of cancer, hepatitis C, HIV, diabetes, cardiovascular and respiratory systems, as well as all medicinal products on the WHO list of essential medicinal products. This is a classic example of how the patent system can be used for the direct benefit of public health.

16 November 2017

Swiss Innovation Forum and Swiss Technology Award 2017

The IPI again participated at the Swiss Innovation Forum (SIF) in Basel on 16 November 2017 as a main partner. The SIF offers a national platform for the promotion of innovation, creativity and design in Switzerland. The presentation of the Swiss Technology Award and the MassChallenge Ceremony also took place at the event.



20 November 2017

Swiss design data now accessible in Designview

As of 20 November 2017, national designs entered in the Swiss design register can also be retrieved in Designview. This multilingual and user-friendly search tool is provided by the European Union Intellectual Property Office. It offers access to the registered designs of all participating national offices – largely patent and trade mark offices – as well as the interregional offices EUIPO, WIPO (World Intellectual Property Organization) and ARIPO (African Regional Intellectual Property Organization). With this tool, it is possible to search for approximately 12.7 million designs from 61 intellectual property offices. The integration of Swiss design data into the tool continues the IPI’s positive collaboration with the EUIPO. Since 26 October 2015, Swiss national trade marks and applications have been integrated into TMview. TMview offers access to data on more than 47.6 million trade marks from 62 participating offices.

December

22 November 2017

The Federal Council adapts copyright to the age of the internet

To strengthen the rights and interests of creative artists and the cultural industries, the Federal Council intends to systematically combat illegal pirated content online. In its revision of the Copyright Act, it is simultaneously adhering to the principle that consumers of illegal content should not be criminalised. With measures in favour of research and libraries, the Federal Council also wants to take advantage of the opportunities offered by digitalisation in copyright law. The Federal Council approved the corresponding legislative draft and the dispatch at its meeting on 22 November 2017. The bill is based on a compromise agreed upon by the various stakeholders in a working group set up by the FDJP.

27 and 28 November 2017

ip-search @ IP Service World

The IPI was represented at the IP Service World 2017 in Munich. With 570 participants, the event has become one of the largest conferences of the industry in Europe. At the event, an IPI patent expert gave a well-attended presentation on strategic patent analyses, and at the ip-search exhibition stand, many valuable contacts could be made with potential customers. The competition to win a 4.5 kg giant Toblerone chocolate bar also generated much attention.

1 December 2017

The IPI now classifies Swiss patent documents in accordance with the Cooperative Patent Classification System

From December 2017, the IPI is starting to classify Swiss patent documents (patent applications and patent specifications) according to the Cooperative Patent Classification System (CPC). This is in addition to the International Patent Classification (IPC). The first documents are to be published on 15 December 2017. The CPC is the joint classification of the European Patent Office (EPO) and the United States Patent and Trademark Office (USPTO). It is also used by many other patent offices. In comparison to the IPC, it allows for a more detailed classification of patent documents in specialised categories, which is beneficial for some patent searches.

20 December 2017

Time limit for the initial examination of applications for trade mark registration

Due to the high number of Swiss applications for the registration of trade marks, the IPI is extending the time limit for the initial examination of applications to four months from the date of paying the filing fee and any class surcharges. Within this time limit, the IPI will either confirm to the applicant that their trade mark will be approved for entry in the trade mark register or inform them about any deficiencies, which they can subsequently remedy within a given time limit.

January

1 January 2018

Monitoring Office for Technological Measures transferred to the IPI

The Monitoring Office for Technological Measures (OTM) has been transferred to the IPI as of 1 January 2018. The Federal Council adapted the Copyright Ordinance accordingly at its meeting on 29 September 2017.

1 January 2018

New IPI directive on supervision of the CMOs

The new IPI directive on the supervision of the collective rights management organisations (CMOs) comes into force on 1 January 2018. The directive sets out guidelines for the IPI as supervisory authority when inspecting the management of the CMOs. The new directive applies as of the 2018 financial year annual reporting. The goal of updating the directive was to bring it up to date in terms of current accounting law and cooperation between inspections by the IPI and the auditors. All CMOs currently use the Swiss GAAP FER accounting standard, which the new directive is also based on. SWISS GAAP FER already requires the extensive disclosure of details on income, expenditures and management. A transparent collective management is in the interest of the CMOs, their members, users, as well as politics and the public. In future, the CMOs can submit their reports electronically to the IPI. The updated directive allows the IPI to carry out its supervision effectively and in a manner fitting for modern times.

An Overview of the Year at the IPI

February

1 February 2018

Innovation for everyone in the health-care sector: a podium at the IPI analyses what works and what not

At the IPI stakeholder event on Innovation and Affordability of Medical Products on 1 February 2018, podium participants discussed challenges and new problem-solving approaches in the field of innovation. Margaret Kyle, PhD MIT and Professor of Innovation and Economics at MINES ParisTech higher education institute, said: “It is easier to work on the pricing and reimbursement than tinker with the patent system. We have much more information about the value of a product at the time it is brought to market than at the time the patent application is filed.” Peter Braun, Head of Global Access Strategy and Health Policy at Roche, spoke about pandemic contingency planning, while former IPI employee Peter Beyer, who is now responsible for IP and innovation at the World Health Organization (WHO), proposed solutions to problems in the field of research and financing for antibiotics resistance.



17 to 20 February 2018

The International Swiss Talent Forum 2018 creates ideas for the city of the future with the IPI's involvement as a sponsor

In an age of rapidly growing populations, how can cities be developed for the long term? At the seventh International Swiss Talent Forum (ISTF) in Thun, from 17 to 20 February 2018, 70 talented youths from all over Europe searched for solutions to the challenges of cities of the future. As a sponsor of the forum, which is organised by Swiss Youth in Science (SjF), the IPI presented one of the five challenges of the event: to question the current IP rights system and recommend changes in light of the challenges of the digital revolution and the development of “smart cities”. Their solutions were presented at the end of the forum at a public event. With the support of the ISTF, the IPI is anchoring the topic of intellectual property among future leaders and contributing to the promotion of education and innovation in Switzerland. The IPI is also involved in the Swiss Youth in Science foundation as a partner.



March

1 March 2018

The electronic IP rights administration system for trade marks launched

The trade mark division launched the electronic IP rights administration system for Swiss trade marks in March 2018. This affects all new trade mark applications and register changes for registered trade marks. With this new system, paper dossiers for trade marks are a thing of the past. Representatives and applicants have noticed little about this change, which nevertheless was a significant one for the IPI's trade mark division.

20 March 2018

Patent applications from Switzerland rise to a new all-time high in 2017

The European Patent Office (EPO) has published the figures for patent applications from Switzerland in its 2017 annual report. Three higher education institutions (EPFL, ETH and the University of Zurich) were among the top 20 Swiss applicants for the second time, while the company Roche remains as the most active patent applicant. The canton of Vaud is again the canton with the highest number of applications, but Zurich has dropped in the city rankings with a third fewer patent applications than in the previous year. Although Switzerland remains the country with the highest per capita patent activity, it has been overtaken by China at the EPO, and as such has now dropped to sixth position in the country rankings.

April

11 to 15 April 2018

The IPI at the Exhibition of Inventions

Each year, the International Exhibition of Inventions of Geneva brings together on average more than 700 exhibitors from 40 countries, with companies, inventors, organisations, as well as private and state institutes exhibiting their inventions. This year, the IPI again took part with a stand.



11 April 2018

The Federal Council elects two new members to the Institute Council

At its meeting of 11 April 2018, the Federal Council elected Peter Walser and Luc-E. Amgwerd as new members of the IPI's Institute Council with effect from 1 May 2018 and 1 July 2018 respectively. Peter Walser is a Swiss and European patent attorney as well as a long-standing partner of a Zurich patent law firm. He follows on from Vincenzo Pedrazzini, who stepped down from the Institute Council at the end of 2017. Luc-E. Amgwerd was legal counsellor of an innovation company for more than 10 years and is today the director of a spin-off of the same company. He replaces François Curchod, who resigned from the Institute Council as per mid-2018. The nine-member Institute Council is the highest management body of the IPI. It determines the level of the fees and approves the budget, the annual report and the financial statement. It also determines the composition of the Executive Board (with the exception of the Director General, who is selected by the Federal Council).

11 April 2018

Info event in Zurich on the use of strategic patent analyses

The IPI talked about the use of strategic patent analyses in the daily work of patent professionals at an information event in Zurich on 11 April 2018. A strategic patent analysis links patent information to business information, which opens up new avenues of support in classic patent clarifications.

30 April 2018

First substantive decision in the new cancellation procedure on the grounds of non-use of a trade mark

As of 1 January 2017, it is now possible to apply to the IPI using a simplified procedure to cancel a trade mark that is not being used commercially. This procedure provides a rapid and cost-effective alternative to civil proceedings. Sixty-one requests for cancellation were received by the IPI by 30 April 2018. By the end of March 2018, the IPI had issued 14 formal decisions (one decision concerning dismissal and 13 decisions to close the case) and had had to make a substantive decision in two cases. All material decisions on cancellation proceedings are published on the IPI website.

May

3 to 4 May 2018

The IPI on a world tour

The name, logo and, of course, the associated expertise of the IPI is being borne in all directions by the international cooperation projects carried out by the IPI, which are financed by the State Secretariat for Economic Affairs (SECO). As a result, the IPI is gaining recognition in project countries, not only within the various government agencies involved, but also among SMEs, associations, manufacturers, other donor countries and development organisations – and even the population. At the IP for Start-Ups conference from 3 to 4 May 2018 in Jakarta, an IPI patent expert presented the services of the IPI. Together with the Swiss start-up consultation company Venturelab, it advised local Indonesian SME associations on the topic of IP, thus providing the IPI's expertise to the Indonesian private sector.



29 May 2018

The start-up grüengahnts wins the IPI's IP Management Award 2018

The YOUNG ENTREPRISE SWITZERLAND (YES) association, which is co-sponsored by the IPI, connects schools with the Swiss economy. At the annual national competition, school teams set up their own mini-company. There are awards for various aspects, which the teams can choose as the focus of their work. The IPI bestows the IP Management Award to the start-up that deals most convincingly with the topic of protecting intellectual property. This year's winners from grüengahnts extensively explained in their IP management report the intellectual property questions that a start-up has to ask in order to sustainably protect and successfully use their innovations. They mentioned at the award ceremony that dealing with the IP issues to do with their company had made them sensitive to the importance of respecting and safeguarding intellectual property protection.



31 May 2018

Improved international protection for Swiss quality products

Georgia and Switzerland signed an agreement on the mutual protection of their geographical indications and on the use of designations of origin on 31 May 2018. The agreement protects well-known Swiss designations of origin and contributes to preserving the reputation of Swiss quality products in the long term. "Designations of origin are an important marketing tool for Swiss quality products, also in the export sector," said Catherine Chammartin, Director General of the IPI at the signing ceremony with Nikoloz Gogilidze, Chairman of the Georgian patent office Sakpatenti.



June

1 June 2018

The IPI party

On 1 June 2018, the IPI held its company party at the Bierhübeli in Bern under the motto "the Eighties", which also served to inspire this year's annual report photo spread. Staff celebrated in the look of the 80s to the greatest hits from this era. A special highlight was the flying visit of department head Simonetta Sommaruga, who surprised staff with a fitting speech.



13 to 15 June 2018

ip-search at the PATINFO 2018

Under the motto "IP Search – Impact on Competition", service providers, patent attorneys, and industry and patent office representatives discussed the latest developments and trends at the largest German-speaking patent information conference in Ilmenau, Germany. The IPI was present at the event with an exhibition stand under the label ip-search.

25 June 2018

The IPI reports initial success against misuse of "Swissness"

Since 1 January 2017, the IPI has been actively combating misuse of "Swissness" in Switzerland and abroad. The cooperation of the business community and the authorities is making an impact, with the IPI successfully intervening in 287 cases in 2017 at home and abroad.



Trade Marks, Patents, Designs and Copyright

Switzerland regularly finds itself at the top of global innovation rankings, which is why it is vital that our country protects its intellectual property effectively. Two of the IPI's statutory tasks are the administration of IP rights and supervision of the collective management organisations.

18

Trade marks

In the IPI's trade mark division, the year was dominated by the introduction of the electronic IP rights administration system. Since March 2018, all dossiers have been maintained in digital format, meaning that there had to be a partial reworking of internal workflows concerning trade mark examination work and quality control. This required not only flexibility from staff, but also a commitment to learning.

In the course of the new system being introduced, the prerequisites required for communicating electronically with the general public were also created. In future, it is expected that requests for register changes will be able to be made online and that trade mark owners will also be able to manage their portfolio in the same manner.

The number of trade mark applications in Switzerland continues to increase – from 16,229 to 17,109 in the year under report. In addition to this were approximately 15,000 trade marks registered abroad, whose protection was then extended to Switzerland.

Ninety-seven per cent of Swiss applicants use the online filing system “e-trademark” to submit their applications. In the year under report, almost half of them opted for an “early trade mark examination”.

When applicants choose this procedure, they have to compare online the categories of goods and services for which their trade mark is to be valid with the terms accepted by the IPI. If there are no apparent problems with the application, it is entered in the trade mark register within six working days. This was possible in around half of cases during the reporting year.

Interestingly, two-thirds of all applications were submitted by trade mark consultants, as was also the case in the previous business year. This means that every third applicant chooses not to be represented professionally. Simultaneously, the demand for trade mark searches offered by the IPI also stagnated at a comparatively low level.

The fact that many applicants do not seek professional support is understandable to a certain degree, especially considering that they are often small and medium-sized enterprises. A trade mark application for Switzerland costs 550 Swiss francs for ten

years of protection; the costs for support from a trade mark consultant or a professional search service provider are comparatively as high.

Nevertheless, the IPI believes that it is important to keep emphasising that the risks involved in registering a trade mark lie with the applicant. In fact, legislators have determined that owners of earlier trade marks can oppose a new, similar trade mark and bring an action before the civil court opposing its use.

If the court agrees with the earlier trade mark owner, the consequences can be serious. These can range from having to relabel products branded with the trade mark to having the products destroyed. And as if that were not enough – if the court forbids the use of the new trade mark, any investments already made, such as in publicising it, will be lost.

With the help of a professional, however, applicants can develop an IP strategy to minimise the risks. A preliminary consultation, for example, can prevent applying to register a trade mark that is similar to one already registered, and therefore help avoid it becoming the subject of legal action.

Patents

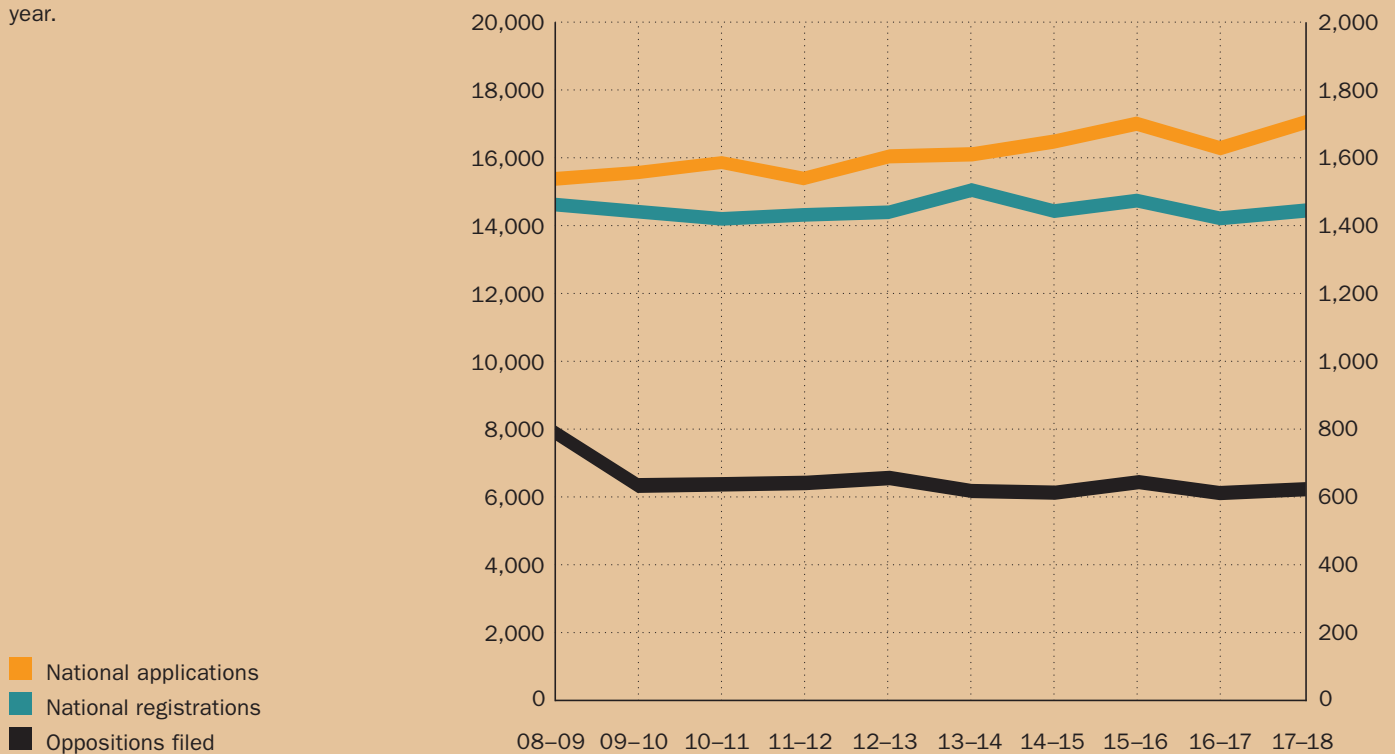
The right to be able to exclusively market an invention for a maximum of twenty years is a powerful instrument – and in some industries, it is an indispensable part of the business model. Wherever this is the case, however, protecting a patent is costly. The pharmaceutical industry, for example, which traditionally

Trade Mark Trends

Trade mark applications show a slight increase in the reporting year.

Applications and registrations

Oppositions



Trade Marks

	2017/18	2016/17	% change from previous year	2015/16	2014/15	2013/14
National						
Trade mark applications	17,109	16,229	5.4	16,995	16,202	16,053
– expedited service	1,114	992	12.3	931	968	1,141
– e-filings	16,554	15,663	5.7	16,447	15,440	15,291
Registrations	14,238	14,172	0.5	14,683	14,351	15,168
Pending applications ²	8,307	7,129	16.5	6,705	5,913	5,546
Renewals	11,519	10,847	6.2	10,443	11,263	9,524
Oppositions						
New cases	616	605	1.8	645	602	605
Closed cases	606	661	-8.3	620	632	675
Pending cases ²	705	695	1.4	751	721	731
International						
International registrations designating Switzerland ¹	15,631	15,342	1.9	13,191	13,794	12,602
Renewals ¹	13,863	13,821	0.3	12,597	12,974	12,133

20

Patents

National patent applications and patents

Patent applications submitted	1,591	1,795	-11.3	1,819	2,016	1,973
– Swiss origin	1,305	1,464	-10.9	1,440	1,482	1,502
– foreign origin	287	331	-13.3	379	534	471
Patents granted	718	646	11.1	639	748	581
Processed patent applications	2,238	2,200	1.7	2,002	2,323	2,220
Pending patent applications ³	6,271	6,820	-8.0	7,110	7,180	7,383
Patents in force ³	7,304	7,371	-0.9	7,368	7,540	7,298

European patent applications and patents

Submitted to the Institute and forwarded to the EPO	39	36	8.3	46	83	127
European patents granted designating Switzerland and Liechtenstein ¹	107,728	96,065	12.1	76,878	58,226	56,521
European patents paid designating Switzerland and Liechtenstein ³	111,172	106,007	4.9	100,617	97,804	94,614

International patent applications (PCT)

Applications submitted to the Institute and forwarded to WIPO	93	128	-27.3	195	186	196
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Designs

Number of filings	780	866	-9.9	842	833	801
– number of objects	2,888	2,752	4.9	2,635	3,162	2,633
Number of second term renewals	556	514	8.2	516	551	517
Number of third term renewals	374	418	-10.5	360	402	324
Number of fourth term renewals	169	114	48.2	88	117	118
Number of fifth term renewals	86	81	6.2	89	81	54
Annulments	839	835	0.5	856	798	860
Designs in force ⁴	9,649	9,723	-0.8	9,689	9,686	9,639

Changes in the methodology of data collection possible.

¹ Sources: EPA, WIPO ² Per 05.07.2018 ³ Per 30.07.2018 ⁴ Per 18.07.2018

protects its new active ingredients and procedures worldwide, can expect total costs of more than 100,000 Swiss francs per patent over the entire twenty-year term of validity.

While initially it is patent attorney work and translations that produce the most costs, the largest cost drivers after a patent has been granted are the fees owed for keeping it in force. They must be paid individually in each country and therefore accumulate accordingly. In this respect, the renewal of a patent is a sign that it is worthwhile for patent owners to continue exploiting their protected intellectual property.

The statistics from the year under report now show that globalisation is forging ahead in patenting too. More and more Swiss companies are filing their patents directly with the European Patent Office (EPO) in Munich. In Switzerland, 7,304 national patents and 111,172 European patents were kept in force in the year under report through payment of the annual patent fees.

A similar picture emerges when looking at patent applications. During the year under review, the majority of patents with effect for Switzerland and Liechtenstein were also filed with the EPO, while 1,630 patents were filed with the IPI.

In addition to granting and administering patents, the IPI's legal mandate also includes providing information services to the Swiss economy such as "assisted searches", for example. For 300 Swiss francs, patent applicants or anyone otherwise interested can spend half a day with an IPI patent expert, who will answer questions about IP rights and conduct a search in the patent literature together with them. During the reporting year, 660 representatives of companies, higher education institutes and other organisations commissioned this service.

The aim of an assisted patent search is to provide the customer with a basis for taking a decision on whether to apply for a patent. If it is decided to patent an invention, patent experts recommend carrying out a Swiss patent application search. This clarifies whether the invention on which the patent is based is not already described in another patent specification. This optional search, offered by the IPI, costs 500 Swiss francs and was carried out 210 times during the reporting year.

Design

The statistical analysis of business activities in the field of design shows two inverse trends. Although the IPI had less design registrations compared to the previous year, the number of objects protected actually rose by five per cent. This is made possible by a special feature of design protection, which allows for an almost unlimited number of designs to be protected with only one registration. The number of designs renewed also rose from 1,127 to 1,185 in the year under report.

The Hague Agreement Concerning the International Registration of Industrial Designs is becoming increasingly popular. Last year, it has been ratified by countries including Great Britain and Russia, and more countries are expressing keen interest in joining soon. This international development has not yet had an effect on the number of Swiss applications filed under the Hague Agreement. In fact, the number has declined slightly compared to the previous year.

The IPI reached a milestone during the reporting year in bilateral cooperation with the European Union Intellectual Property Office EUIPO. On 20 November 2017, the IPI made its design data available to the European database Designview. Designview currently provides data on more than 13 million designs from 67 countries including Switzerland.

Supervision of the Collective Rights Management Organisations

For individual composers, singers, authors and filmmakers, a disproportionate amount of effort is often involved in managing their copyrights themselves. This is why the law provides for the establishment of collective rights management organisations (CMOs). Currently, there are five such CMOs in Switzerland, who today represent more than 70,000 creative artists. These CMOs authorise the use of artists' works and in return collect remuneration. The IPI supervises the CMOs together with the Federal Arbitration Commission for the Exploitation of Copyrights and Related Rights (FACO). It is in regular contact with the supervised CMOs and once a year invites their representatives to Bern. This took place in October 2017 in the year under report.

The IPI is primarily concerned that such supervision is carried out effectively and in a manner that is contemporary, which is why it modernised its guidelines on management auditing in the year under report. They aim to ensure that management supervision is effective, transparent and predictable, and make it possible to present reports electronically where possible. The new CMO supervision directive came into force at the beginning of 2018; CMO reporting activities must comply with it from the 2018 financial year.

The CMOs supervised by the IPI have the right to challenge decisions made by its supervisory authority through the courts; such a case was closed in May 2018. The case concerned differing views on whether additional payments made by a CMO into the

pension funds of members of the former executive board must be claimed back from them. The Federal Administrative Court (FAC) supported and upheld the view of the IPI that some payments into the pension plans of the affected executive board members did not comply with sound financial management. The CMO concerned must now ask the people in question to pay back the additional 30 per cent employee contribution that it had made. It has already confirmed that it will comply with this judgment.

No decision has yet been made in another dispute, however. In 2016, the IPI changed its practice concerning allocation of costs for complaints brought against CMOs. In autumn 2017, it charged for the costs of handling a complaint for the first time,

Overview of the Swiss Collective Rights Management Organisations

Collecting Society	SUISA	SUISSIMAGE	PROLITTERIS	SSA	SWISSPERFORM
Year founded	1923	1981	1974	1986	1993
Repertoire	Non-theatrical musical works	Audiovisual works	Literary and dramatic works, as well as visual works of art	Spoken, dramatico-musical, choreographic and audiovisual works	Related rights
Members	Composers, writers and music publishers	Script writers, directors, producers and other rights holders of the film branch	Writers, journalists, visual artists, photographers, graphic artists, book, newspaper and periodical publishers as well as art publishers	Dramatists, composers, script writers and directors	Practising artists, producers of sound carriers and audiovisual carriers as well as broadcasting companies
Total membership	37,747	3,713	12,299	3,055	16,538
Income from the use of rights in millions of CHF					
2016	147.1	72.0	31.8	22.9	55.1
2017	150.0	65.2	32.7	22.9	60.5



**STOP
AIDS**

even though in the case in question, the CMO had neither breached the law nor conducted itself inappropriately. The CMO concerned subsequently challenged the transfer of costs before the FAC.

At the beginning of 2018, the Federal Council expanded the IPI's portfolio of tasks by incorporating the Monitoring Office for Technological Measures (OTM) into the IPI. Previously, the OTM had only been administratively assigned to the IPI. The OTM is the specialist authority of the federal government for determining the effects of technological measures that protect works and other protected subject matter. These are copy barriers and access controls for copyright protected content, such as pieces of music or films.

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A copy barrier is used, for example, to prevent an audio book being saved on an MP3 device. Assessing whether using such a technological measure unjustifiably restricts the legally authorised use of works is the OTM's task. If this proves to be true in a specific case, the OTM consults with both the operators of the technological measures and the users to find a mutually agreeable solution.

The OTM only takes action if evidence shows that a technological measure impairs the authorised use of copyright protected content. Within the first six months of 2018, no such instances had been reported to the OTM. However, the OTM did have reason to believe that various monitored measures making it impossible for Swiss users to access subscribed online services when abroad, could constitute an impairment of the exception to copyright protection. Therefore, it has opened an investigation into this issue, which is known as "geoblocking".

"Transparency and Coherence"

In Switzerland, more than 30,000 trade mark applications are submitted every year and examined by the IPI's specialists. The IPI also plays a key role in maintaining and developing trade mark law. Eric Meier, Head of the Trade Mark Division, talks about the power of brands, cooperation with trade mark consultants, and special trade mark cases during the reporting year.

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Eric Meier, Vice Director General and Head of the Trade Mark Division

Mr Meier, trade mark law is susceptible to limiting our basic rights to free economic activity. Would you agree?

Eric Meier: Yes, I would, because it allows the owner of a trade mark to exclude other companies and individuals from using certain words, names and graphic elements commercially.

How do legislators justify this restriction on freedom of competition?

Trade marks have a dual function. They guide consumers in choosing goods and services, but are also used by companies to label their products, which in turn allows them to build a sustainable marketing and advertising strategy.

Above all, the public knows of the trade mark register in which all trade marks that are valid in Switzerland are listed.

One of our core tasks is maintaining this register – but the crucial thing here is its legal force. The IPI employs 80 highly-qualified trade mark experts who examine every single application for their compliance with the statutory rules.

Almost 30,000 new trade marks passed the substantive examination in the year under report. Is there not a risk of inflation?

We don't think so. The range of goods and services on the market is in a constant state of fluctuation. Trade marks disappear while new ones are established.

Around 2,000 applications for registration were rejected. Why?

We have four grounds for refusal. A trade mark can be misleading or descriptive; it can also be contrary to accepted principles of morality or applicable law. The designation "mind-fuck", for example, is contrary to accepted principles of morality, while the use of certain foreign place and regional names – such as "Rioja" for wine – can breach Switzerland's international obligations.

How often are trade marks refused on the basis of these latter grounds?

Not very often. In most cases, we refuse to register a trade mark because we believe that it's misleading or descriptive and therefore belongs to the public domain.

Can you give us a specific example of a case within the past twelve months, without commenting on an ongoing procedure, of when a trade mark registration was refused on the grounds of being misleading?

There is an interesting case from the fashion industry in which an applicant wanted to protect the name Cosmoparis. We refused the application on the grounds that the designated origin "Paris" rather obviously leads consumers to believe that the handbags in question come from France.

What did the applicant do?

He brought the decision before the Federal Administrative Court (FAC) in St. Gallen. The court supported our argumentation and maintained that the trade mark Cosmoparis is only permissible for French goods.

Are there also cases where the court hasn't agreed with the IPI?

Yes, there are. A current example is the case of a tobacco company that wanted to protect the colour designation magenta for cigarettes. We refused it.

Why? Deutsche Telecom also applied to register a colour designation as a trade mark.

That's allowed because telecommunications services are, in principle, colourless. Coloured cigarettes, however, are actually already available, which is why we maintained that the requested colour designation was descriptive. At that point, the applicant lodged an appeal with the FAC and won the case on 3 October 2017. The judge decided that magenta was not a "characteristic colour" for cigarettes.

How did the IPI react?

We could have brought the case before the Federal Supreme Court, but we didn't. Instead, we reviewed our practice. However, that doesn't mean that we'll approve colour designations without scrutiny in future. If someone applies to register the name of a colour for paint or cosmetics as a trade mark, we would refuse it because protecting the designation of a specific colour would unjustifiably restrict the freedom of competition for other providers.

When the IPI approves a trade mark, the registration process is formally concluded. However, a competitor may file opposition during the following three months. Why is there this reservation?

Because we don't check to see whether a trade mark is so similar to one already registered that there is a risk of confusion between the two. Opposition proceedings give the owner of an earlier trade mark the possibility of requesting that the new trade mark is cancelled.

How often does that happen?

In the year under report, there were more than six hundred such proceedings. Whether an opposition is accepted is decided by the IPI in the first instance. If the competitor disagrees, he or she can turn to the FAC.

Since the beginning of 2017, there exists a new cancellation procedure on the grounds of non-use of the trade mark. Can you explain to us what it's about?

Like opposition proceedings, the cancellation procedure is instigated by third parties. It allows us, to some extent, to eliminate inactive trade marks. Five years after registering a trade mark, a third party can request that it is cancelled if he or she can credibly show that the trade mark is not in use.

Why five years?

The deadline was determined by legislators to give companies time to build their brand and position it in the market.

The IPI is also involved in developing legal practice as the Confederation's centre of competence for all questions concerning intellectual property. What does this signify?

Experience shows that trade mark law is revised by Parliament every ten years. The last time this was the case was as a result of the "Swissness" bill. However, in practice, we are constantly being confronted with new phenomena – such as digitalisation, for example – which are not covered by applicable law, but which we have to address.

Can you give us an example?

The multimedia trade mark – as it is known – is a perfect example. It's a combination of moving images and sound in a film sequence. The digital representation of the trade mark alone poses a number of problems. How can you ensure that it will always be perceived in the same way in a register extract? Will a digital representation still exist in 50 years? This is an important question because trade mark protection can, in principle, be renewed indefinitely. Or the question of whether film sequences can really constitute a reference to the origin of a company's goods or services. Here there's a need for clarification for the economy. It's up to us and the courts to make quick and coherent decisions.

When examining the word and figurative elements of a trade mark, a subjective evaluation always plays a role alongside objective legal criteria. How do you ensure that your 60 examiners follow a uniform practice?

This is one of the biggest challenges we face every day. Our most important working instrument is our trade mark guidelines. This is a compendium of legal practice which we update every two years with around 40 key judgments delivered by the courts on trade mark cases during this period.

Are these guidelines available to the public?

They have to be, because they ensure not only coherence within our trade mark division, but also transparency towards our clients. Trade mark consultants know how we have treated applications in the past, so they can draw conclusions from them and advise their clients accordingly. Of course, the economy benefits, too: because the majority of Swiss applications for registration are well-prepared, the IPI only has to reject around five hundred of them every year.

Trade mark consultants are the professional link to the economy. How closely do you work together with them?

We are in contact with professional associations and periodically send out a newsletter. A one-day annual meeting, which takes place in spring every year, gives us the opportunity to invite representatives from professional and other associations to the IPI and report on current trends in the field of intellectual property. We also organise ad hoc meetings with the associations on current topics, regularly take part at IP events and answer questions from experts.

In the year under report, almost 14,000 trade marks, which had already been registered abroad, were protected in Switzerland by having their protection extended. What does the IPI think about the fact that more and more companies are adopting an international trade mark strategy?

The key term is harmonisation. The World Intellectual Property Organization (WIPO) places the accent primarily on developing existing international instruments and agreements such as the International Nice Classification of Goods and Services or the Madrid System for the International Registration of Marks. We also maintain bilateral exchanges, particularly with the European Union Intellectual Property Office (EUIPO) in Alicante, with whom we are in permanent contact. Unlike the European Patent Office (EPO), the EUIPO is an agency of the EU, Switzerland's most important trading partner. Therefore, the EUIPO's practice also has an influence on our work.

And the other way round, too? Does Alicante listen to Switzerland's issues?

There's no doubt that the economic clout is unequally distributed. But when it concerns developing trade mark practice – such as when we step into somewhat unknown territory as trade mark experts – we are perceived and appreciated by the EUIPO as equal partners.

The “Confederation's Attorney's Office”

The IPI is the national centre of competence for all issues concerning patent and trade mark protection, indications of source, design protection and copyright. This function results in numerous tasks in the fields of legislation and international cooperation.

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Copyright Act revision

On 2 November 2017, the IPI requested that the head of the Federal Department of Justice and Police, Simonetta Sommaruga, present the draft of the revision to the Copyright Act to the entire Federal Council. A mere three weeks later, on 22 November, the Federal Council approved the draft. In doing so, it reaffirmed its intention to take consistent action in future against illegal pirated content on the internet without criminalising consumers of such illegal offerings. The National Council's Committee for Legal Affairs has been discussing the draft revision since May 2018. The IPI has been supporting the policy deliberations from a technical point of view, and its experts are on hand to provide further information.

Therapeutic Products Act revision

In March 2016, Parliament approved the revision to the Therapeutic Products Act (TPA). Falling within the scope of this revision was also a partial revision of the Patents Act, which has introduced exceptions to the effects of a patent. The revised law strengthens the right of doctors to prescribe generic medicines with what is known as the “free choice of medical treatment”, even if the active ingredient in question has been patented for another indication. The partial revision also provides incentives

for research and development in the field of medicines for children. With a “paediatric extension”, pharmaceutical companies that invest in therapeutic products for children will receive six months additional patent protection either by extending a supplementary protection certificate or – with the new paediatric protection certificate – by extending the term of the patent. The IPI has now prepared the implementing provisions for the partial revision of the Patents Act and submitted them for consultation. Forty-two opinions were received by 20 October 2017, which were then included in the consultation report. The partial revision of the Patents Act is expected to come into force on 1 January 2019.

Implementing the “Swissness” package

The outcome of the “Swissness” legislation after one-and-a-half years is largely positive – the new provisions have been effective within Switzerland. Caution letters sent to offending companies by the IPI have had an impact, as has the possibility of seizing goods at customs that improperly bear the “Switzerland” designation of origin. However, the road to effective enforcement abroad has been more difficult. Even though the IPI always seeks dialogue with the competent national trade mark offices – and uses the Paris Convention as its legal basis – the last one-and-a-

half years have shown that each country responds differently to Switzerland's requests. Switzerland's primary goal is, and remains, the conclusion of a state treaty, which would lead to incorporating the "Swissness" rules into the relevant local law. Such a treaty has already been concluded with Russia and Jamaica; Georgia is the newest country to join in the year under report. If such an ideal solution cannot be achieved, the IPI urges the respective trade mark offices to adopt the "Swissness" provisions into their own guidelines. Initial progress has already been made in this respect with sister organisations in the EU, the USA and China. In parallel to these bilateral discussions, the IPI is also establishing the monitoring of improperly designated goods and services in the important export markets of the Swiss economy. The enforcement of the "Swissness" provisions is also a matter for the private sector, which is why the "Swissness Network" was launched with a kick-off meeting in August 2017. The IPI and representatives from associations and companies particularly affected by this are using this network to exchange information with one another and to join forces in improving enforcement abroad.

Multilateral activities

The World Intellectual Property Organization (WIPO) fulfils several duties. It is the international filing office for intellectual property, the technical point of contact for other international organisations, and a forum for setting standards at international level. This latter function is carried out by representatives of WIPO member states within the framework of "standing committees". Switzerland – represented by the IPI – sees its role in these bodies as being a bridge-builder and a balancing element. During the reporting year, it was particularly involved in the Standing Committee on the Law of Patents (SCP) and the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT).

One of the topics that is repeatedly discussed by the SCP is the friction between patents and health. Middle and lower income countries sometimes complain that patent protection makes it difficult to provide their populations with modern medicines. However, the fact that patents significantly contribute to the research and development of new and better medication is often ignored or neglected. One of the organisations trying to find pragmatic solutions in this field is the Medicines Patent Pool (MPP). This non-profit organisation, which is domiciled in Geneva, negotiates indications and country-related licence agreements with the pharmaceutical industry. It also grants production licences to manufacturers of generic medicines. Together with the emerging

economies of Brazil and Chile, Switzerland strove to ensure that the MPP was invited to the SCP. It succeeded and in December 2017, MPP representatives were given the opportunity to present their work and their concerns to the WIPO member states. The visit was well received and Switzerland is now pushing for the MPP to participate further at the SCP. The aim here is for national patent offices to get to know the organisation better with a particular view to cooperating more closely in expanding the database on the patent status of key medicinal products, which is maintained by the MPP.

Designations of origin were among the topics discussed in the SCT during the reporting year. The reason for this was twofold: a pending court case between the state of Iceland and the British chain store Iceland; and possible changes to the granting of generic Top-Level Domains (gTLD) on the internet, which could soon include country names such as .switzerland in addition to .com. At the SCT meeting at the end of April 2018, Switzerland – as the spokesperson of a broad coalition of nations – submitted a procedural request, which aims at recognising the right of a country to its own name. Approval of the broadly supported proposal by the SCT would not least send a signal to the Internet Corporation for Assigned Names and Numbers (ICANN). From Switzerland's point-of-view, such a decision would allow member states to insist that the private organisation ICANN, which is the principal internet authority, provides rules that adequately consider the interests of countries and regions when granting gTLDs.

International dialogue

A further strengthening of relations with China played an important role at bilateral level during the reporting year. On 4 June 2018, a delegation from the IPI visited the State Intellectual Property Office of the People's Republic of China (SIPO). It was the first time that a foreign delegation was able to discuss all industrial property rights with the SIPO. In addition to meetings between government representatives, roundtable discussions also allowed Swiss companies and associations to address their concerns directly to the competent Chinese authorities.

International trade relations

The first Switzerland-Brazil meeting of experts on national and international intellectual property issues, which was based on a decision by the Switzerland-Brazil Joint Commission on Commerce and Trade, took place from 6 to 15 March 2018 in Brazil. The mission included contact with the various administrative bodies and ministries responsible for aspects of IP in Brasilia. Also on the agenda were meetings with the private sector and

non-government agencies in Sao Paolo, as well as with the Brazilian National Institute of Industrial Property (INPI) in Rio de Janeiro. A public event on the topic of innovation and intellectual property also took place in the offices of Swissnex in Rio. Various follow-up events were agreed on with the INPI and the Brazilian foreign ministry's IP coordinator, while Brazil and Switzerland reaffirmed their interest in continuing the discussions between the two countries.

International cooperation

The IPI takes part in international cooperation in the field of intellectual property within the scope of its statutory mandate.

30 This cooperation takes place either independently or together with other national and international organisations. During the reporting year, the IPI continued its projects with Colombia, Ghana, Serbia and Indonesia. In addition, it concluded a framework agreement with the State Secretariat for Economic Affairs SECO for ten million Swiss francs in the field of international cooperation. This agreement forms the basis for projects with new countries. All projects undertaken by the IPI are carried out at the request of the target countries; the focus and activities within these projects are also determined bilaterally.



Searches, the Fight against Counterfeiting and Piracy, and Training

The IPI is the federal government's centre of competence for patents, trade marks, designs and copyright, and also carries out tasks in the areas of public awareness raising, training and services. The IPI's services include commercial patent and trade mark searches for national and international business, which it provides under the label ip-search.

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Searches

Worldwide, there are more than a hundred million patents in dozens of languages – from China alone, there are over a million more each year. From the point of view of patent law, this rapid growth has its problems. Because in return for granting a patent for an invention, the law also requires that the said patent is disclosed, thus allowing anyone to determine the state of the art at a moderate cost. Yet due to the flood of international patents, this is becoming increasingly difficult.

In parallel, experts have noticed a substantial change in patenting. One of the most important filters when searching for pertinent patent information until now – the industry the inventor or owner belongs to – is rapidly losing in significance. “The trigger is the digital transformation of society and the economy,” says Theodor Nyfeler, head of patent and technology searches at the IPI. Sensors, processors, wireless communication systems, batteries, artificial intelligence, to name just a few examples, are meanwhile playing a critical role in the success of almost all industries.

A patent that has been filed by a chemical company can be relevant for car manufacturing, while a logistics company can protect an invention which is of interest to agriculture.

Anyone who searches for reliable patent information in the field of Internet of Things (IoT), Deep Tech or Industry 4.0 therefore runs the risk of carrying out research that is incomplete, with all the possible legal and financial consequences that this can have. “We are witnessing a growing fear of patent infringement lawsuits,” says Theodor Nyfeler.

Due to this situation, many companies are enhancing their in-house IP know-how, while others are relying on external partners, such as the IPI, on a case-by-case basis. The IPI's patent experts verify the current state of the art under the label ip-search or employ a freedom to operate search (FTO) to ensure that no relevant IP rights have been overlooked when making a strategic decision.

To keep up with increasing demands amid globalisation and digitalisation, ip-search also employs artificial intelligence (AI). “Formerly, people read through the patent literature, but now the extraction and categorisation of pertinent documents is supported by computer.”

For this, AI algorithms are “trained” to categorise documents with a set of well-known, pertinent patent specifications. The computer then autonomously screens the rest of the documents while displaying how closely each one matches the reference set of patent documents.

“As a result,” says Theodor Nyfeler, “our experts gain more time for detailed analyses or for enhancing patent information with details of the owners’ economic situation.” By analysing development partnerships, for example, it can suddenly become clear that patents, which at first appeared to belong to irrelevant small companies, actually belong to a well-known one. Thus, it is possible to realistically map a company’s entire intellectual property and to draw the right conclusions about research focus and strategy.

The importance of reviewing a company’s patent portfolio – also from a financial aspect – can be clearly seen with backtesting (predication based on past analyses), which was conducted by the IPI during the reporting year. Specifically, the intellectual property of 100 companies on the US technology stock exchange NASDAQ was analysed and evaluated.

The IPI experts reconstructed a quality indicator for all 100 patent portfolios based on a combination of the IP rights’ citation frequency and geographical spread since the year 2000. In parallel, they traced the share prices of all 100 companies for the same period, and finally compared patent quality with stock exchange performance. What were the results? The shares of the ten companies with the best quality patents outperformed the index of the 100 companies by a factor of five.

This shows that the link between patent and business information can bring about know-how, which is as relevant for industry companies as it is for banks and investors. “Such analyses have become a key component of our product range,” adds Theodor Nyfeler.

Beside patent searches, trade mark searches are also a part of the IPI’s product range. By carrying out a similarity search, for example, the customer can verify whether any trade marks have already been registered or trade mark applications submitted that could be confused with their own (i.e. are similar or even identical).

In total, the IPI achieved a turnover of 5.87 million Swiss francs with its commercial search services during the reporting year, which corresponds to an increase of almost ten per cent from the

previous year. It is driven by customer growth outside the DACH region (Germany, Austria, Switzerland), where demand increased by no less than 50 per cent.

In order to sustain this trend, the IPI intensified its marketing activities for commercial patent searches, particularly in the USA. In autumn 2017 and spring 2018, IPI employees targeted potential customers with visits and participated in trade fairs and conferences on the East and West Coasts.

The Fight against Counterfeiting and Piracy

The STOP PIRACY Association is dedicated to fighting counterfeiting and piracy. Its members include the IPI, where its secretariat is domiciled, as well as many associations from sectors affected by piracy, the Federal Office of Police fedpol, the Federal Customs Administration, and individual companies such as ABB and Lacoste.

In the year under report, STOP PIRACY celebrated its tenth anniversary, which provided the opportunity to take stock and respond to new challenges. Awareness campaigns are to remain the key instrument of the association; however, a milestone concerning new activities was already achieved with the conference “Best practices in the fight against counterfeiting and piracy – the role and responsibility of advertising, logistic and financial service providers”. This conference, which took place in September 2017, was jointly organised with the University of Neuchatel’s Intellectual Property and Innovation Research Centre [PI]². It explored, in front of a large public audience, how the online advertising industry, credit card firms and courier services could work together in the fight against counterfeiting and piracy.

Awareness-raising work was also carried out by the association at various consumer fairs, such as “Les Automnales” in Geneva Palexpo and “Salon interjurassien de la formation” in Moutier. In addition, the association was present at Zurich Airport with a ten-day awareness campaign. Finally, STOP PIRACY also developed the content of a new campaign primarily aimed at young people, which is to be launched on social media during the current business year. The special exhibition “Beguiling appearance – murky shadows?” in the Swiss Customs Museum in Cantine di Gandria, which was conceptualised by STOP PIRACY and the Federal Customs Administration, has evolved into a major attrac-

tion. In its second season, the exhibition recorded over 8,000 visitors from throughout Switzerland, including many school classes. Due to its high popularity, the exhibition has been extended until October 2019.

Training

Providing training and courses for the Swiss business community is a core task of the IPI. During the reporting year, IPI staff conducted no less than 112 specialist presentations, either in the IPI itself or directly at clients' premises. The presentations covered all areas of industrial property rights; however, the emphasis was on patents and trade marks. In total, the events recorded at least 2,000 visitors.

The IPI participates regularly in international cooperation with developing countries. This cooperation supports the functioning of local authorities but can also extend to training the local business community. In May 2018, an IP trainer from the IPI visited Jakarta to show local SMEs and start-ups how they can use IP rights to their own benefit. The workshop was attended by 120 company representatives and lasted for two days.

The IPI's training activities also include preparation courses for the patent attorney examination. Last year, one German-language and one French-language preparatory course was carried out.

With its IP@6 lecture series, the IPI presents intellectual property in the context of society as a whole. During the reporting year, Francis Gurry, the Director General of the World Intellectual Property Organization, responded to an invitation by the IPI to speak on the topic of "Knowledge, Property and Power".



The IPI is Financially Sound

The 2017/18 financial year generated CHF 2 million more fee income than the previous business year, resulting in the net income for the year increasing to CHF 7.7 million. Together with actuarial gains from revaluating the long-term pension liabilities under IFRS (applied by the IPI), equity rose to CHF 64.6 million.

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The IPI's most important revenue item is fees with a share of 88%. There are two reasons why they are up on the previous business year by CHF 2 million: the liquidation of an accrual for trade mark filing fees and an increase in maintenance fees for trade marks and European patents. Under the International Financial Reporting Standards (IFRS) applied by the IPI, trade mark filing fees may only be recorded as revenue from the time the procedure has been concluded. With the former BAGIS software, it was not possible to accrue specific individual charges, so a flat-rate accrued amount was increased or reduced at the end of every month, depending on how the number of pending procedures had changed compared to the previous month. With the new electronic IP rights administration system, each filing fee paid is first booked individually in an accrual account and then recorded as revenue when the procedure has been concluded. However, it turned out that the "historical" accrual was significantly higher than the number which pending trade mark procedures would have justified at the time of the changeover. This is why the accrual was liquidated to the extent of the excessive amount. The increase in trade mark renewals by a good 6% led to additional revenues of approximately CHF 471,000 compared to the previous business year, while annual fees from European patents increased by CHF 785,000 (net). Although

the European Patent Office further increased its productivity – in 2017, it granted 12% more European patents designating Switzerland than it did in 2016 – it was by no means the same as in 2016, when there was a one-time increase of 43%.

Net gross profit totalling CHF 63.2 million was offset by operating costs (including costs for third-party services) of CHF 55.5 million and a financial result of CHF –24,000. Personnel expenses in particular increased in comparison to the previous year. In addition to ad hoc recruitment to cover increasing workloads, a central procurement office was established to support and relieve the specialist divisions in awarding legally compliant and economically advantageous contracts. Insourcing also contributed to the increase in personnel costs – incoming and outgoing mail processing had previously been carried out for years by an external service provider – while administrative expenses decreased significantly.

The revaluation of long-term pension liabilities under IFRS led to net income for the year totalling CHF 7.7 million. An improvement in the long-term yield expectations on the financial markets led to an increase in the technical interest rate from 0.75% to 0.95%, and the Swiss Federal Pension Fund PUBLICA also performed

better than expected. Actuarial gains are charged directly to equity as other comprehensive income (OCI).

The net income for the year and OCI led to a comprehensive income of CHF 15.4 million, which increased the equity to CHF 64.6 million at the end of the financial year. This is therefore within the upper half of the range determined by the Institute Council.

The statutory auditors have unreservedly confirmed that the financial statements give a true and fair view.

The detailed IFRS-compliant financial statements can be downloaded from the website at www.ipi.ch (under About us > Annual reports and financial statements).

Balance Sheet

(in thousands of CHF)	2017/2018 30.06.18	2016/2017 30.06.17
Cash and cash equivalents	119,567	106,113
Receivables	653	690
Other receivables	782	917
Accrued receivables and prepaid expenses	1,845	2,055
Current assets	122,847	109,774
Tangible assets	21,417	21,964
Intangible assets	2,243	2,511
Fixed assets	23,661	24,476
Total assets	146,507	134,249
Accounts payable	1,191	1,826
Current accounts (amounts due to customers)	6,822	5,709
Financial liabilities towards third parties	10	0
Other liabilities	9,825	9,175
Accrued expenses and deferred income	10,527	9,683
Short-term provisions	2,128	2,062
Short-term liabilities	30,503	28,456
Provisions for pension plans	47,877	53,364
Other provisions	3,496	3,213
Long-term liabilities	51,373	56,577
Balance sheet result (profit)	7,731	6,812
Reserves	75,482	68,670
Accumulated other income	-18,581	-26,265
Equity	64,632	49,217
Total liabilities	146,507	134,249

Statement of Total Comprehensive Income

(in thousands of CHF)	2017/2018 from 01.07.17 to 30.06.18	2016/2017 from 01.07.16 to 30.06.17
Fees*	55,760	53,694
Services	6,112	5,673
Miscellaneous revenues	1,562	1,517
Own contributions to software projects	0	538
Gross revenue	63,434	61,423
Revenue decreases	-193	-228
Net revenue	63,241	61,195
Third party fees	-1,024	-1,009
Third party services	-1,440	-1,249
Other third party expenses	-640	-573
Third party expenses	-3,104	-2,832
Personnel expenses	-42,962	-41,685
IT expenses	-2,152	-1,952
Other operating expenses	-4,573	-5,401
Depreciation and impairment loss	-1,729	-1,780
Federal Patent Court	-966	-670
Operating expenses	-52,383	-51,488
Operating profit	7,755	6,876
Financial income	55	4
Financial expenditure	-79	-68
Financial result	-24	-64
Profit (+)/Loss (-)	7,731	6,812
Other income**		
Result from the revaluation of defined benefit plans	7,684	20,795
Other income	7,684	20,795
Comprehensive income	15,415	27,607

* Net value after deduction of the EPO's 50% share of maintenance fees.

** Other income consists only of those positions that are not subsequently transferred to the profit and loss sheet, which is why detailed subdivisions have been dispensed with.

Cash Flow Statement for Operating Result

(in thousands of CHF)	2017/2018	2016/2017
	from 01.07.17 to 30.06.18	from 01.07.16 to 30.06.17
Change in cash flows from operating activities		
Profit after financial result	7,731	6,812
Depreciation (+) of fixed assets	1,729	1,770
Impairment loss on fixed assets	0	10
Depreciation (+) / appreciation (-) receivables	12	-8
Other non-cash surplus (-) or loss (+)	283	-227
Increase / decrease in long-term provisions	2,197	476
Increase / decrease in short-term provisions	66	85
Increase / decrease in accounts payable and other liabilities		
– from services	-635	-179
– from accruals and deferrals	844	418
Increase / decrease in other liabilities and equities	670	-599
Increase / decrease in receivables		
– from services	24	121
– from accruals and deferrals	211	18
Increase / decrease in other receivables	124	-16
Interest earnings	0	0
Interest income	0	0
Cash inflow/outflow from operating activities	13,256	8,681
Change in cash flows from investment activities		
Cash-effective investments in tangible assets	-857	-685
Cash-effective investments in intangible assets	-56	-744
Change in cash flows from investment activities	-914	-1,429
Change in cash flows from financing activities		
Change in current accounts	1,113	229
Cash inflow/outflow from financing activities	1,113	229
Change in cash and cash equivalents	13,455	7,481
Cash and cash equivalents at year begin	106,113	98,631
Cash and cash equivalents at year end	119,567	106,113

Statement of Changes in Equity

(in thousands of CHF)	Revaluation of pension obligations	Reserves	Total Equity
Opening balance on 01.07.2016	-47,060	68,670	21,610
Profit	0	6,812	6,812
Other income	20,795	0	20,795
Closing balance on 30.06.2017	-26,265	75,482	49,217
Opening balance on 01.07.2017	-26,265	75,482	49,217
Profit	0	7,731	7,731
Other income	7,684	0	7,684
Closing balance on 30.06.2018	-18,581	83,213	64,632

Events after balance sheet date

No events have occurred since the reporting period (30 June 2018) that influence the informative value of the financial statement 2017/2018.



Nathalie Hirsig is an international cooperation project coordinator and works at the IPI, as do all other portrait subjects (inside front cover)



Simon Schmid is an international trade relations legal adviser (page 4)



From left to right: Barbara Mögli is a specialist in corporate communications, Carole Spicher was an employee in the IPI's Contact Center and Lydia Meier is responsible for procurement (page 9)



Mihail Leontescu (left) is Head of the Service and Applications Management department. Stephan von Allmen is Head of the Trade Mark Examination section (page 17)

Four-in-a-row

The first shoes with wheels were seen back in 1760. Since then, roller-skates have been continuously developed into various forms, including into inline skates. The wheels of inline skates are lined up in a row and they were originally designed for summer training of ice hockey players and speed skaters. The streamlined sporting equipment soon took over the mass market, with the first successful commercial models being sold in shops in the mid-80s.

Only new inventions are patentable

Whatever is already part of the state of the art can no longer be invented. The state of the art means all knowledge that has been made publicly available anywhere in the world prior to applying for a patent. This includes printed and online publications as well as public lectures and exhibitions. Anything the inventor themselves makes known about their invention is also generally considered as being part of the state of the art.

Games without limits

The older generation will remember that there was a time when video games were played in an amusement arcade or – via a console – at home on the old tube TV. In the 80s, the personal computer (PC) became one of the most popular platforms; meanwhile, games are also now played on the smartphone. The development of electronic games has become a market that generated global sales of almost 80 billion Swiss francs in 2017. This was all largely without patent protection because according to legislators, games – like novels, operas and pictures – are considered creative activities and not inventions. Instead, they are protected by copyright.

Exclusion from patent protection

Software without an accompanying, program-related technological invention is not patentable, as in the case of ideas, concepts, discoveries, scientific theories and mathematical methods, algorithms, rules of games, lottery systems, teaching methods and organisational work processes, plant varieties and breeds of animals, and therapeutic and surgical procedures.

The big bang outdoors

At the 1981 Berlin Radio Exhibition, Sony and Philips presented the compact disc. In the following year, the Swedish pop band ABBA recorded "The Visitors" – the world's first commercial CD production. In 1984, the Discman came onto the market, and ever since, countless electronics companies have developed mobile music devices that are technologically based on the compact data storage device. Today, portable audio devices – for example, the ghetto blaster – are as much icons of a young carefree lifestyle as are sneakers and caps.

Inventions expand the state of the art

In return for the exclusive rights of use, an inventor must reveal the basic technological ideas of their invention. Experts can then understand how the invention works and develop the technology further. In so doing, patent owners and society benefit equally from the legal protection of intellectual property.

CRASH-BOOM-BANG!

On 6 October 1951, the German Patent Office granted the inventor Walter Linderer patent DE 896312 for a "means for the protection of in-vehicle persons against injuries in crashes". In the USA, John W. Hetrick acquired a similar patent in 1953. However, these early airbags were hardly functional because they lacked the necessary sensor and activation technology. Another few decades passed before in 1981, the Mercedes-Benz W126 became the first vehicle on the market to be equipped with a built-in airbag as standard.

It is all about industrial application

An invention must be able to be produced or applied in any commercial field, including in agriculture, for it to be patentable. This is also the reason why a perpetual motion machine is not patentable – a machine without a supply of energy that continuously performs work is neither feasible nor commercially applicable.



Claudia Balmelli is a translator (page 23)



Tim Stoffel is a trade mark researcher (front cover and page 31)



Franziska Leuenberger is a trade mark examiner (page 35)



Alban Fischer is Vice Director General and Head of the Patent Division (page 44)

The fight against HIV

The active ingredient Azidothymidin (AZT) was synthesised in 1964 by cancer researcher Jerome Horwitz. Horwitz and Wayne State University in Detroit published their invention without ever having the molecule patented. As a result, AZT could not be patented by third parties either. However, The Wellcome Foundation Ltd filed patent EP291633 with the then Federal Department for Intellectual Property on 14 March 1986 in the form of a “product for use” claim: “3'-Azido-3'-deoxythymidine for use in the treatment or prophylaxis of a retroviral infection”. In Switzerland, AZT was under patent protection as an active ingredient against AIDS until 13 March 2006.

Patents are worth their weight in gold

A patent owner can use their invention exclusively for commercial purposes – for up to 20 years – thus prohibiting others from producing or selling the invention. During this time, the patent owner can recoup the costs of research and development, and generate profits. If someone finds a new application for something already known, they can also acquire this right. In such cases, this is known as a use patent.

And then there was light!

On 27 January 1880, Thomas Alva Edison acquired US basic patent number 223898[6]. Ever since, he has been regarded worldwide as the inventor of the light bulb – but wrongly so. Indeed, the Englishman Humphry Davy had already introduced a functioning arc lamp in 1809 – 70 years earlier. Nonetheless, the vital improvements were made by Edison who, in particular, improved the ratio of light to heat emission. Without fuel-free artificial light, our everyday life would come to a stand still. The light bulb paved the way for the modern 24-hour society.

Patent protection in Switzerland

If Edison had wanted to patent his invention in Switzerland, he would have had to wait several years. This is because in Switzerland, there was no patent protection well into the age of industrialisation. It was common opinion that patent protection inhibits economic competition. Initial attempts for relevant legislation failed in 1866 and 1872. Yet on 15 November 1888, the day had finally come: The Federal Industrial Property Agency – today known as the IPI – started its operations.

Satisfying the hunger pangs

When the American engineer Percy Spencer was once working on a radar unit, he noticed that the chocolate bar in his pocket had become soft. He was not the first to observe this phenomenon, yet as the owner of 120 patents, Spencer was used to investigating things. He set to work, and five years after his eureka moment with the bar, he had a patent granted for “methods of treating foodstuffs (cooking thereof through the use of electromagnetic energy)”. The rest is cooking and kitchen history.

Only novel inventions are patentable

If an invention is to be patented, it must be more than a combination or modification of something that has already been made known some time in the past, somewhere in the world. A “person skilled in the art” is the person capable of making a judgement on the inventiveness of the idea. This is a hypothetical person who knows the state of the art in their specialist field but who lacks a certain originality. If the purpose of the invention is shown to a person skilled in the art and they readily come up with the same solution as the inventor, then the solution is not considered inventive.

Welcome to the net

The computer network CSNET, which was founded in the USA, served to exchange documents electronically between academic institutions. It follows, therefore, that if someone can transmit studies and data, then they can send messages too. In Germany, the age of email began on 2 August 1984. On that Thursday, Laura Breden from the CSNET administration office contacted Michael Rotert, the technical head of the Data Center of the Department of Informatics at the University of Karlsruhe. “This is your official welcome to CSNET,” was the message, which did not arrive in Karlsruhe, however, until 3 August. The servers on both sides of the Atlantic needed 24 hours to deliver it.

An exciting idea is not necessarily a patentable invention

Patents are granted for inventions that significantly improve or create a product or manufacturing process anew. The mere idea of transmitting a message electronically instead of a document cannot be protected by patent. Therefore, email is one of those groundbreaking inventions that has never been patented.

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Wir sind froh, euch an Bord zu haben!





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